

**CORPORATION OF THE TOWNSHIP OF MCKELLAR**

**BY-LAW NO. 2018-30**

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**Being a By-law to Prescribe Times for Setting Fires and  
Precautions/Restrictions for Burning and to Repeal By-law No. 2005-26, By-law  
No, 2011-20 and By-law No. 2012-15**

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**WHEREAS** Section 7.1 OF THE Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended, provided that the Council may pass by-laws regulating fire prevention, including the prevention of the spreading of fires and regulating the setting of open air fires, including establishing the times during which open air fires may be set;

**AND WHEREAS** Section 391 of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes Council to pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it, and for costs payable for it for services or activities provided or done by or on behalf of any other municipality, or local board;

**AND WHEREAS** Section 429, subject to subsection (4), of the Municipal Act, 2001, S.O. 2001, c. 25, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act;

**AND WHEREAS** Section 446 of the Municipal Act, 2001, S.O. 2001, c. 25, provides that a municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

**NOW THEREFORE** the Council of the Corporation of the Township of McKellar hereby enact as follows:

**1.0 DEFINITIONS:**

For the purpose of this by-law the following definitions shall apply;

**"Campfire/Recreation Fire"** means a small fire set for the purpose of cooking, warmth or socializing. It can best be described as a fire no greater than 61 cm./24 in. by 61 cm./24 in., and burning no higher than 61 cm./24 in. **"Subject to the posted Fire Rating"**, Campfires/Recreation Fires are only allowed on Private Property sites within the Township of McKellar, by persons who are legally on the property. **NO** Campfires/Recreation Fires are allowed on any Public Property within the Township unless a valid permit has been issued by the Chief Fire Official for that site and date.

**“Camp Grounds”** as referenced in this Open Burning By-law: means those property locations within the Township of McKellar which are licensed/permitted by the Township to have and operate, therein allowing persons to place/have trailers or similar accommodation structures/facilities used primarily for seasonal recreational purposes.

**“Chief Fire Official”** means the Fire Chief of the Township of McKellar and/or his documented representative.

**“Clean Wood”** includes dry vegetation debris, natural wood material, discarded natural wood products. A discarded wood product does not include materials such as paneling, plywood, painted or stained wood or synthetics, or pressure treated products.

**“Combustible Materials”** for the purpose of this By-law, “Combustible Materials” are those materials that could immediately take fire/ignite from sparks/embers/flames of an open fire coming in contact with the said combustibles, such as uncut grass, leaves, overhanging branches, fabric materials.

**“Competent Person”** means a person who is : 16 years of age or older, and that person does not show signs of being under the influence of alcohol or drugs, and/or the person does not appear to be suffering from physical or physiological impairment.

**“Enclosed Fire Source”** is applicable only to residential or commercial barbeque or heating unit that is fueled by charcoal, propane or wood. This includes CSA certified “propane fueled fire pit simulator”. Such appliances must be kept clear of all combustibles around and above the device when in use. Exemptions for outdoor furnaces, pizza ovens and similar CSA approved items.

**“Fire Ban”** means a complete ban of All Open Fires and Campfire/Recreation Fires. A Fire Ban status is enacted by the Chief Fire Official within the Municipality, by the authority of the Fire Protection and Prevention Act, and/or by the Ministry of Natural Resources and Forestry, under their Provincial Regulations.

**“Fire Danger Rating: Low, Moderate, High or Extreme”** means a Low, Moderate, High or Extreme Fire Hazard as declared by the Chief Fire Official.

**“Fire Department”** means a Fire Department or a Fire Emergency agency which may be called upon by the Municipality’s Chief Fire Official in the event of an unsafe fire condition within the Township. This may include the related resources of the Ministry of Natural Resources and Forestry and/or heavy equipment contractors who may be called upon to help contain/control a spreading fire.

**“Fire Season”** means the period of **April 1 to October 31** of each year.

**“Flammable Materials”** include those solids, liquids or vapours which could quickly ignite into flames or explode should sparks or flames or hot gases from an ignition/fire source come in contact with them.

**“Incinerator Fires”** are those fires burned within a non-combustible container which must also have a screened cover in place during the burn. The container size shall not exceed 61 cm/24 inches in width and be no taller than 1metre/39 inches tall. It shall be placed and used in accordance with the section 3 rules/conditions for Camp Fires/Recreational Fires.

**“Municipality”** means the Corporation of the Township of McKellar.

**“Municipal Employee”** means an officer, person or other appointed employee of the municipality, including a Municipal Law Enforcement Officer.

**“Open Air Fire”** means fires that are set outdoors and are not contained in the confines of an Enclosed Fire Source, and are fires that are set for the purpose of disposing of clean wood. This includes fires set in outside incinerators or Chimeneas. Open Air Fires cannot exceed 2 metres diameter by 2 meters high.

**“Owner”** with respect to land or property, includes the registered owner, occupant, tenant, or the person for the time being managing or receiving the rent of the property, whether on their own account or on account of an agent or trustee of any other person, or any of the aforesaid.

**“Person”** is an individual, an owner, corporation, partnership, company, firm, association, or party, and includes the successors, assigns, heirs, executors, administrators or legal representatives of a person to whom the context can apply, according to law and the singular shall include the plural. “Person” also includes those persons legally on a property as a guest and/or relatives of the site owner(s).

**“Provincial Offences Act (POA)”** is a provincially (Ontario) set of regulations which have been established/validated for the establishment and enforcement of rules and enforcement criteria which are administered and enforced by related agencies, including municipalities, under the Municipal Act and its benchmarks.

**“Sufficient/Adequate Tools to Control”** means having a minimum of 2-5 gallon pails of water, or a pressurized garden hose and shovel/rake to quickly suppress the fire.

**“Unsafe Conditions”** includes a Fire Hazard Rating of High or Extreme, or a total Fire Ban which has been declared by the Chief Fire Official.

## 2.0 GENERAL BURNING RESTRICTIONS FOR ALL OUTDOOR FIRES

This Section 2. et al applies primarily to “Open Air Fires”, generally used for the cleanup/removal/burning of natural wood materials, grass, weeds and related brush materials.

- 2.1 No person shall start a fire in contravention to conditions of the Fire Danger Rating as declared by the Chief Fire Official. Fire Hazard Ratings can be ascertained by using the Municipality’s website or by contacting the Municipal Office.
- 2.2 No person shall set and “Open Air Fire” or permit it to exceed a size more than 2 metres diameter by 2 metres high.
- 2.3 No person shall start any fire outdoors unless conditions and/or location will allow the fire to burn safely, from ignition to extinguishment.
- 2.4 No person who starts a fire outdoors shall leave the fire without leaving a competent person in charge of the fire. This person must remain inline of sight of the fire at all times until it is totally extinguished.
- 2.5 No person shall start a fire outdoors, for any purpose, unless they have sufficient and adequate material, devices or resources to immediately contain and extinguish the fire, when not attended or if the fire should become a risk to persons or property.
- 2.6 No person shall use as a fuel for a fire outdoors, any substance other than clean wood. Furthermore, no person shall start any fire to burn, or shall burn outdoors, any household kitchen garbage or other materials made of or containing rubber, plastic, paint, petroleum, tar, chemical wastes, pressure treated wood, synthetic or man-made materials or any other materials considered to create excessive smoke or smell, or release of chemical by-products.
- 2.7 CSA approved outdoor recreational fire simulators can only be fueled by propane fuel delivered via CSA approved/inspected delivery systems.
- 2.8 No person shall start or tend any fire outdoors when the wind or conditions are such that it may cause any of the following “unsafe conditions”:
  - (a) A decrease in visibility on any highway or road or navigable channel;
  - (b) The rapid spread of fire through grass, brush, forested area or other property that was not intended to be burned;
  - (c) An adverse impact on other people or property;
  - (d) The contravention of any municipal law, provincial or federal legislation.

2.9 No person shall start an “Open Air Fire” outdoors during the “Fire Season” for the purpose of burning piled wood, brush, leaves or discarded acceptable wood by-products unless:

- (a) The fire is started not earlier than 6:00 p.m. in the evening and is extinguished not later than 10:00 a.m. the following day, or earlier;
- (b) The fire is started on property that the person lawfully occupies;
- (c) The fire is at least 10 metres from any combustible structures or objects;
- (d) The fire is not larger than 2 metres diameter by 2 metres high;
- (e) The Chief Fire Official has declared that there is a Low Fire Danger or Moderate Fire Danger.

### **3.0 GENERAL BURNING RESTRICTIONS FOR “CAMPFIRE/RECREATION FIRES”**

3.1 No person shall start a “Campfire/Recreation Fire” during the “Fire Season” unless:

- (a) The fire is started not earlier than 6:00 p.m. in the evening and extinguished not later than 2:00 a.m. the following day, with the exception that “Campgrounds” may allow persons registered on their site to commence campfires for cooking at 4:00 p.m. through to 2 a.m. the next day;
- (b) The fire is at least 1.5 metres from any combustible structures or objects;
- (c) The fire is not larger than 61cm/2ft diameter and flames maximum of 61cm/2ft high;
- (d) The Chief Fire Official has declared that there is a Low Fire Danger, Moderate Fire Danger or High Fire Danger Rating;

3.2 Except during a “Fire Ban”, a person may start a fire outdoors during the fire season only for cooking or personal warmth or socializing if:

- (a) The site of the fire is bare rock or non-combustible material, and the fire must be contained by a metal ring, rocks, bricks, etc.;
- (b) Flammable materials such as gas cans must be kept at a minimum of 5 metres from the fire;
- (c) The fire does not exceed 61cm/2ft diameter by 61cm/2ft high;
- (d) The person tending the fire has tools and/or water adequate to contain the fire within the fire site;
- (e) The fire is under the care and control of a competent person at all times and that person is in the immediate visual location of the fire and outdoors, near the fire source.

### **4.0 DECLARATION OF FIRE BAN AND FIRE DANGER RATINGS**

4.1 The Chief Fire Official or designate may declare a Fire Ban when conditions or local circumstances make such fires hazardous. Fire Bans against burning shall be advertised through local media, posted on the

Municipality's website and posted on Fire Danger Rating signs within the Municipality.

- 4.2 The Chief Fire Official or designate is responsible for establishing the Fire Danger Rating. The dissemination of the Fire Danger Rating to the public shall be through posting on the Municipality's website and posted on Fire Danger Rating signs within the Municipality.
- 4.3 During the Fire Season the Chief Fire Official or designate shall regularly assess the Fire Danger Rating within the Municipality and establish a Fire Danger Rating as depicted on Schedule "A" to this By-law.

## **5.0 TOWNSHIP AND PROVINCIAL AGENTS EXEMPT**

- 5.1 Any fire under the direct and constant supervision and control of the Fire Department, of the Ministry of Natural Resources and Forestry are exempt from the provisions of this By-law.

## **6.0 RIGHT OF ENTRY**

- 6.1 An Officer may enter at all reasonable times upon any premises or property to ascertain whether the provisions of this By-law are obeyed and to enforce and carry into effect the provisions of this By-law.
- 6.2 No person shall hinder or obstruct, or attempt to hinder or obstruct an Officer from carrying out inspections or premises or property to ensure compliance with this By-law.
- 6.3 An Officer must upon request, display or produce proper identification.

## **7.0 OBSTRUCTION**

- 7.1 No person shall hinder or obstruct, or attempt to hinder or obstruct any Officer exercising a power, or performing a duty under this By-law.
- 7.2 Any person, who has been alleged to have contravened any of the provisions of this By-law, shall identify himself/herself to the Officer upon request. Said identification shall be validated by government issued documentation or other identification worn or carried by the Officer. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his/her duties.
- 7.3 A refusal of consent to enter or to remain in a room or place actually used as a dwelling does not constitute hindering or obstruction within the meaning of subsection 7.1 unless the Municipality is acting under an order, under Section 438 of the Municipal Act, or a warrant under Section 439 of the Municipal Act, or in the circumstances described in Section 437(d) or (e) of the Municipal Act.

## **8.0 PENALTY**

- 8.1 The Chief Fire Official of the Township of McKellar and/or a Municipal Law Enforcement Officer are hereby authorized to enforce provisions of this By-law pursuant to the Provincial Offences Act, and the applicable Municipal Act regulations as identified in this by-law under Schedule “B”.
- 8.2 Every person who contravenes or fails to comply with any of the provisions of this By-law is guilty of an offence and on conviction is liable to the fines and other penalties prescribed by the Provincial Offences Act. The applicable minimum fines for a first offence are identified on Schedule “B” of this By-law. Other applicable penalties include those provisions identified under Section 9, Recovery of Costs.
- 8.3 (a) The Enforcement Official may at their discretion, subject to the specific circumstances, or the Fire Danger Rating is at “Moderate” or “Low”, may issue a first time warning, if the violator agrees to immediately extinguish the fire, and/or (b) may be applied.
- (b) If the scene circumstances as observed by the Officer indicate a valid violation foundation, the Officer may issue a POA offence under Schedule “B” to this By-law, to a person on scene when the Officer(s) arrived.
- (c) If the registered property owner(s) are not on scene at the time of the violation, a copy of the warning, and/or POA charge laid will be sent to the site owner’s address as shown on the tax roll file. Thereafter, Section 8.3(d) and Section 9.1 may be applied.
- (d) If there is a second violation of this By-law which occurs on property occupied by or owned by the same person(s) as 8.2, then that person or persons may be subject to relative fines under Schedule “B” of this By-law, and/or additional fines or further enforcement actions as determined under the Ontario Provincial Offences Act. In addition, the property owners are also subject to penalties under Section 9.

## **9.0 RECOVERY OF COSTS**

- 9.1 In addition to any fines or penalties established elsewhere in accordance with this By-law, the person or persons responsible for setting or maintaining, or permitting to be set or maintained, and “Open Air Fire” and/or a “Campfire/Recreation Fire” or “Incinerator Fire”, the property owner’s, (if a second violation of the Township’s Fire or Fireworks regulation on the same site or owned by the same person(s)), said owner(s) shall be liable to the Township by way of a fee or charge, as calculated in accordance with Schedule “C” to this by-law, on account of those costs and expenses incurred by the Township, including:
- (a) Investigating and responding to a complaint made to the Township, the Chief Fire Official or designate, an Enforcement Officer or by any person acting reasonably and in good faith, which complaint results

from setting and/or maintenance of an “Open Air Fire” and, in the opinion of the Chief Fire Official, the Chief Fire Official’s designate or the Municipal Law Enforcement Officer, the smoke or emissions from such “Open Air Fire” are causing or have caused actual discomfort to the complainant, or was in violation of a By-law and therein resulted in;

- (b) The dispatching of a Municipal Law Enforcement Officer, a Fire Department and/or other agencies, their vehicles, equipment or aircraft, and firefighting and/or emergency support personnel for the purpose of investigating a complaint and/or initiating the controlling or extinguishing of an “Open Air Fire”, an “Incinerator Fire” or a “Campfire/Recreation Fire” that is in violation of this By-law.

9.2 All fees and charges payable under this By-law, Section 9.1 are due and owing to the Municipality within thirty (30) days of the invoice rendered to the person liable for paying them.

9.3 All overdue accounts shall accrue interest at a rate of 1.25% per month (15% per annum), calculated monthly, from the due date, until paid in full.

9.4 If a person who sets or maintains an “Open Air Fire” contrary to this By-law is not the owner of the property, but occupies or is using the property with the owner’s consent, the owner and the person conducting the “Open Air” burning shall be jointly and severally liable for paying any fees and charges imposed by this By-law.

9.5 All fees and charges under this By-law constitute a debt of the person liable for payment of them to the Municipality and, in the case of owners of a property being responsible for payment of the fees and charges, the Municipality may add the amount owing to the tax roll for the owner(s) real property and collect them in like manner as municipal taxes.

## **10.0 SEVERABILITY**

10.1 If any section, clause or provision of this By-law is for any reason declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the by-law as a whole or in part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed.

## **11.0 SHORT TITLE**

11.1 The short title of this By-law is the “Burning By-law”.

## **12.0 ADMINISTRATION**

12.1 This By-law applies to the entire geographic area of the Municipality.



12.2 That By-law No. 2005-26, By-law No. 2011-20 and By-law No. 2012-15 be repealed.

12.3 This By-law shall come into force and take effect on the date of its passing.

READ a FIRST and SECOND TIME THIS 30<sup>th</sup> day of July, 2018.

*Original signed by Peter Hopkins*

*Original signed by Tammy Wylie*

\_\_\_\_\_  
Reeve

\_\_\_\_\_  
Clerk

READ a THIRD time and PASSED in OPEN COUNCIL this 17th day of September, 2018

*Original signed by Peter Hopkins*

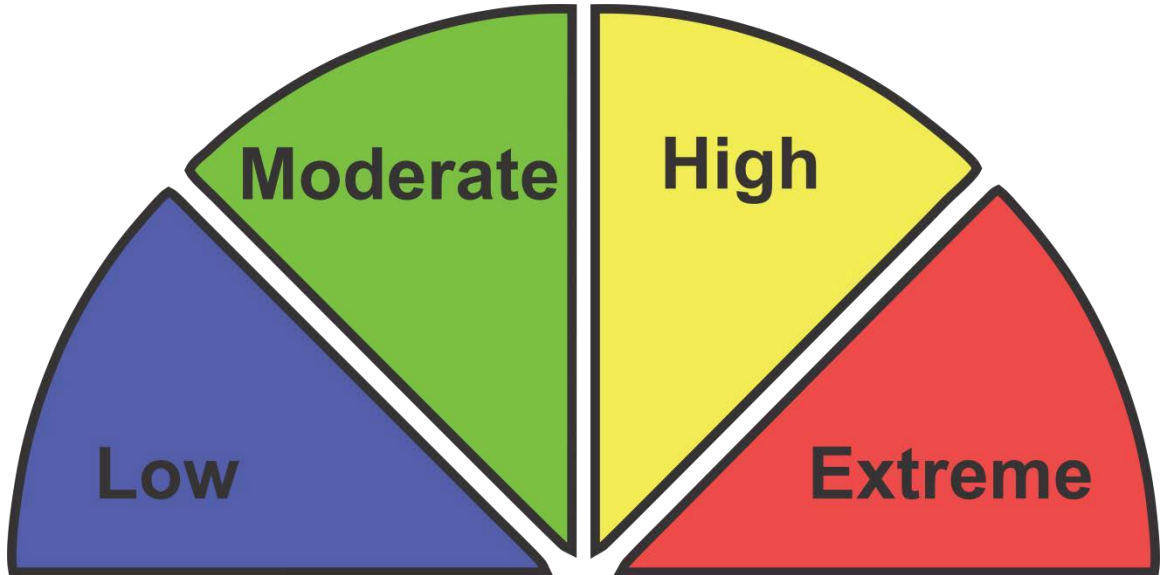
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Reeve





*Original signed by Tammy Wylie*

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Clerk

**THE CORPORATION OF THE TOWNSHIP OF  
MCKELLAR Schedule "A" of By-law No. 2018-30**

**FIRE  
RATINGS**



 Fire Rating: <b>LOW</b>	 Fire Rating: <b>MODERATE</b>	 Fire Rating: <b>HIGH</b>	 Fire Rating: <b>EXTREME</b>
<b>LOW</b>	<b>MODERATE</b>	<b>HIGH</b>	<b>EXTREME</b>
<p style="text-align: center;"><b>LOW and MODERATE FIRE RATINGS:</b></p> <p>No person shall start a fire outdoors during the Fire Season (April 1<sup>st</sup> to October 31<sup>st</sup>) unless the fire is started not earlier than <b>6:00 p.m. in the evening</b>,</p> <ul style="list-style-type: none"> <li>• Fires for "open burning" Sec. 2 are allowed to be burned under supervision, until 10AM the next day</li> <li>• Licensed campgrounds may allow-fires for cooking to commence @ 4pm until 2am the next day</li> <li>• Campfire/Recreation Fires for cooking, warmth and recreation permitted at private residences from 6pm until 2am the next day.</li> </ul>		<p style="text-align: center;">Fire Danger is <b>SERIOUS</b></p> <p style="text-align: center;"><b>NO OPEN BURNING</b> except "contained campfires" for recreation, cooking &amp; warmth</p> <p style="text-align: center;">plus <b>FIREWORKS PROHIBITED</b></p>	<p style="text-align: center;">Fire Danger is <b>EXTREMELY HIGH</b></p> <p style="text-align: center;"><b>NO OPEN BURNING</b> of any kind!</p> <p style="text-align: center;"><b>TOTAL FIRE BAN DECLARED</b></p> <p style="text-align: center;">plus <b>FIREWORKS PROHIBITED</b></p>

**THE CORPORATION OF THE TOWNSHIP OF**  
**MCKELLAR Schedule “B” of By-law No. 2018-30**  
**OPEN AIR BURNING BY-LAW – Part 1 - SET FINE**  
**SCHEDULE**  
Provincial Offences  
Act

<b><u>ITEM</u></b>	<b><u>COLUMN 1</u></b> Description of Offence	<b><u>COLUMN 2</u></b> Provision Creating or Defining an Offence	<b><u>COLUMN 3</u></b> Set Fine
1.	Have an “Open Fire” in contravention of the posted Fire Danger Rating	Section 2.1	\$425.00
2.	Burn or permit burning in excess of 2M x 2M x 2M high	Section 2.2	\$425.00
3.	Burn without a person in charge	Section 2.4	\$300.00
4.	Burn without adequate fire containment devices	Section 2.5	\$300.00
5.	Burn prohibited items or materials	Section 2.6	\$250.00
6.	Burn during unsafe conditions	Section 2.8	\$300.00
7.	Burn outside of designated time period, without permit	Section 2.9	\$300.00
8.	Burn on property not lawfully occupied	Section 2.9(b)	\$250.00
9.	Burn during a High or Extreme Fire Hazard	Section 3.1(d)	\$425.00
10.	Burn recreation/camp fire outside of designated time period	Section 3.2 (a)	\$250.00
11	Recreation Fire in excess of 61cm/2ft diameter by 61cm/2ft in height	Section 3.2 (c)	\$250.00
12	Burn in an unsafe manor	Section 3.2 (a) or (b) or (c) or (d) or (e) “As noted on the violation Notice”	\$250.00

**NOTE:**

- The general penalty provision for offenses listed above is per section 8.1 of this Bylaw, a certified copy of which has been filed.
- “Victim Fine Surcharges” are added to all charges laid under a POA Part 1 process; Per Ontario Regulation 161/00 as amended O.Reg.66/16.

**THE CORPORATION OF THE TOWNSHIP OF THE MCKELLAR**

**Schedule “C” part 1, of By-law No. 2018-30**

**COSTS OF INVESTIGATION / ENFORCEMENT’S PER SECTION 9.1**

<b>ITEM</b>	<b>AUTHORITY SECTION</b>	<b>RELATED COSTS MAY INCLUDE</b>	<b>CALCULATED &amp; DOCUMENTED BY</b>
Responding to a Scene	Section 9.1	TIME, per By-law Officer or Fire Officer @ \$50.00 per hour	Officer’s time sheets & related video/photos
Occurrence and Investigation Time	Section 9.1	TIME, per By-law Officer/Fire Officer @ \$75.00 per hour	Officer’s time sheets & related video/photos
Court – MLEO Time	Section 9.1	TIME, per By-law Officer/Fire Officer @ \$75.00 per hour	Officer’s time sheets & related video/photos
Court – Prosecutor(s) Costs	Section 9.1	TIME, as per Prosecutor’s Case Invoice	Legal Invoice(s)
Administrative Costs	Section 9.1	Staff TIME	Office Staff & Officer(s) logged hours

**SCHEDULE “C part 2” of By-law No. 2018-30**

**COST OF: FIRE CONTAINMENT and/or SUPPRESION SERVICES AND FEES**

The cost(s) for all Fire Control equipment or devices, or suppression personal, are based on the rates established by the organization supplying said resources.

This shall be calculated from the initial dispatch of The Fire Department or support agency under contract or agreement, until such time as each is back in service when the vehicle /device or personnel are back at their base and have been returned to operational level.

The above category Costs will be invoiced by the Municipality and will be due thirty days from the date of the invoice and interest shall accrue and be added to the amount at the rate of 1.25% per month commencing 30 days following the delivery or sending of the invoice.

These fees are in addition to any fines or penalties established elsewhere, in accordance with this By-law.

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The above cost and fee schedule(s) “B” / “C” parts 1 & 2- may be amended at any time at the discretion of the Council of the Township of McKellar